Supreme Court, U.S.
FILED
MAR 7 1986
JOSEPH F. SPANIOL, JR.
CLERK

(2)

CASE NO. 85-1357

SUPREME COURT OF THE UNITED STATES

OCTOBER, 1985 TERM

MICHAEL BRAUER,
PETITIONER,

VS.

THE PEOPLE OF THE STATE OF COLORADO,
RESPONDENT.

ON WRIT OF CERTIORARI TO THE
SUPREME COURT, STATE OF COLORADO

SUPPLEMENTAL BRIEF

MICHAEL BRAUER
2075 CRABTREE DRIVE
LITTLETON, COLORADO 80121
(303) 798-2515

PRO SE
MEMBER OF THE BAR OF THE SUPREME COURT
OF THE UNITED STATES

This Supplemental Brief is filed with the Supreme Court of the United States (hereafter "the Court") pursuant to R.Sup.Ct. 22.6.

Petitioner is in receipt of a document dated February 20, 1986, transmitted to the Court and signed by James P. Hollaway, Counsel of record in the proceeding below for the captioned Respondent, the State of Colorado.

Said document, while it purports to "waive" Respondent's right to file a Brief In Opposition, contains legal argument in the form of a statement that should be dispositive of the case at Bar.

The admission that Respondent makes is, as follows: "[i]t is the respondent's position that the Colorado Supreme Court properly transferred ... [Petitioner] ... to disability inactive status following his claim of being Jesus Christ." This

admission is significant for at least four reasons.

First, the question before the Court is not to determine whether Petitioner is or is not Jesus Christ. The First Amendment to the Constitution of the United States prohibits the Court from making such a determination. United States v. Ballard, 322 U.S. 78, 86 (1944).

Second, my statement that I am Jesus Christ is, beyond any doubt, an expression of religious belief and practice. As is well known, the Gospel of Jesus Christ is centuries old. Therefore, Respondent has flatly and clearly admitted that it had a religious purpose and only a religious purpose in mind when it interpreted and applied the Colorado statutory framework against Petitioner, in direct contradiction to Wallace v. Jaffree, 53 U.S.L.W. 4665, 4666, 4670

(U.S. June 4, 1985), a case decided only six months prior to the decision of the State Court in the "disability proceeding." In Jaffree the Court found that the statement of a state senator that the state legislation in question was enacted as an "'effort to return voluntary prayer to our public schools'" Id. 53 U.S.L.W. at 4666, 4670, was the key determinant in that case. The statement of the state senator expressed a purpose for State action impermissible under the Establishment Clause. Respondent's admission is strikingly similar to the state senator's statement. The factual contexts are different; however, the principle is the same: State action done for religious reasons.

Third, the admission is a prime example of the manner in which Respondent denied Petitioner Due Process of law and Equal Protection of the law. See the

Petition for Writ of Certiorari (hereafter "Petition") at 64-75. After nine months of litigation, the filing of five versions of apparent "allegations" in the State Court by Respondent and the filing of a Petition for Writ of Certiorari in this Court by Petitioner, Respondent has finally decided the grounds upon which Respondent initiated the "disability proceeding" against Petitioner. Due Process requires that a prosecuting attorney and State Court determine the grounds for a complaint prior to the initiation of a proceeding, not after a Petition for Writ of Certiorari has been filed in the Supreme Court of the United States by a respondent.

Furthermore, said document purports to be a "waiver" of Respondent's right to file a Brief in Opposition. However, in the very next sentence following that

declaration Respondent makes the admission concerning Respondent's "position" quoted herein, above. Respondent's statement of its "position" is legal argument. Therefore, Respondent has attempted to file a document which it calls a "waiver" but which, in effect, is a Brief in Opposition unsupported with any statutes or case law. This example is typical of the manner in which Respondent has proceeded in its "case" against Petitioner. Petitioner has cited in his Petition numerous similar instances of misleading, flippant and otherwise questionable prosecutorial tactics in violation of Due Process and Equal Protection. See Petition at 124-143.

Fourth, said statement is an admission by Respondent that no sufficient grounds or probable cause existed for the various innuendos (including the "threat"

innuendo and the "criticism of judicial candidates" innuendo) which were directed against Petitioner by Respondent and which were so prejudicial to Petitioner. See Petition at 60-62, 130-133, 140-141.

DATED this 6th day of March, **ANNO DOMINI**, 1986.

Michael Brauer
2075 Crabtree Drive
Littleton, Colorado 80121
(303) 798-2515

Pro Se

Certificate of Mailing

I, Michael Brauer, member of the Bar of the Supreme Court of the United States, hereby certify that I mailed the appropriate number of copies, as described below, of the foregoing Supplemental Brief by depositing said copies in a United States post office or mailbox, with first-class postage prepaid, properly addressed to the Clerk, Supreme Court of the United States, and to the counsel of record in the proceeding below for the captioned Respondent, the State of Colorado, as set forth below, on this 7th day of March 1986.

40 copies, including one copy signed and containing the herein notarized Certificate of Mailing to:

Clerk,
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Three copies to:

James P. Hollaway
Committee Counsel
Grievance Committee
Supreme Court, State of Colorado
600 17th Street, Suite 500 South
Denver, Colorado 80202

Three copies to:

Linda Donnelly
Disciplinary Prosecutor
Colorado Supreme Court
Supreme Court, State of Colorado
600 17th Street, Suite 510 South
Denver, Colorado 80202

Three copies to:

Duane Woodward
Attorney General, State of Colorado

In care of:
Cheryl J. Hanson
Assistant Attorney General
State Services Building
1525 Sherman Street - 3rd Floor
Denver, Colorado 80203

Signed,

_____

Michael Brauer
Member of the Bar of the
Supreme Court of the United
States

ACKNOWLEDGMENT

State of Colorado)
) s.s.
County of Arapahoe)

On this 6th day of March, A.D. 1986, before me, a Notary Public in and for said County and State, personally appeared Michael Brauer, the signer of the above CERTIFICATE OF MAILING, who duly acknowledged to me that he executed the same. WITNESS my hand and official seal the day and year first above written.

My Commission expires:

_____

_____

Notary Public

_____

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Address